

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

LEE KOCH,

Case No. 6:18-cv-0507-MK
ORDER

Plaintiff,

v.

CITY OF ST. PAUL, an Oregon
Municipal Corporation; KIMBALL
WALLIS, and Individual; and LAURA
SCHROEDER, an Individual,

Defendants.

AIKEN, District Judge:

Magistrate Judge Mustafa Kasubhai has filed his Findings and Recommendation ("F&R") (doc. 59) recommending that defendants' Motion to Dismiss be granted. (doc. 43) This case is now before me.¹ See 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

¹ This case is consolidated with *Biggs v. City of St. Paul, et al.* 6:18-cv-506-MK. While Judge Kasubhai addressed defendants Motions to Dismiss in both cases

When either party objects to any portion of a magistrate judge's F&R, the district court must make a *de novo* determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert denied*, 455 U.S. 920 (1982). Plaintiff has filed timely objections (doc. 62) to the F&R and defendant's have filed a timely response to those objections. (doc. 66) Thus, this Court reviews the F&R *de novo*.

Having reviewed the objections as well as the entire file of this case, the Court finds no error in Judge Kasubhai's F&R. Thus, the Court adopts the F&R (doc. 59) in it's entirety. Accordingly, defendants' Motion to Dismiss (doc. 43) is GRANTED in part and DENIED in part. Specifically, the motion is denied as to claims II, V, VI, VIII as to defendant Wallis, and IX, and granted as to claims I, IV, VII, VIII as to defendant Schroeder, X, and XI. The motion is also granted as to claim III against Wallis and Schroeder. See F&R at 2. Except for Claim I, count I and Claim VII, which are dismissed with prejudice, plaintiff is granted leave to amend all remaining claims. Plaintiff is granted thirty days from the date of this Order in which to file an amended complaint.

It is so ORDERED this 18th day of September, 2019.



Ann Aiken
United States District Judge

in a single order, this Court issues separate orders in each case regarding the F&R for clarity.